Filed 12/11/08 In re J.G. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.G., a Person Coming Under the Juvenile Court Law.	B197805 (Los Angeles County Super. Ct. No. FJ 40124)
THE PEOPLE, Plaintiff and Respondent, v. J.G., Defendant and Appellant.	

APPEAL from an order of the Superior Court for the County of Los Angeles. Shep A. Zebberman, Temporary Judge. Affirmed.

Nancy K. Undem, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Steven D. Matthews and Nima Razfar, Deputy Attorneys General, for Plaintiff and Respondent.

SUMMARY

Sufficient evidence supported an order of the juvenile court finding a minor was guilty of robbery as an aider and abettor.

FACTUAL AND PROCEDURAL BACKGROUND

On December 21, 2006, the Los Angeles County District Attorney filed a petition alleging that the minor appellant came within the provisions of Welfare and Institutions Code section 602, in that he committed the crime of second degree robbery, a felony. (Pen. Code, § 211.) The minor denied the allegations.[1] After the People presented evidence, the minor moved for dismissal under Welfare and Institutions Code section 701.1. The juvenile court denied the motion and sustained the petition. The court placed the minor home on probation, with five years and two months as the maximum period of confinement.

The minor filed a timely appeal, contending there was insufficient evidence to establish he was an aider or abettor. The testimony of the victim, a sixteen-year-old boy, showed the following. On December 19, 2006, the victim left school to go home. The minor and a second boy (C.) approached the victim from behind. C. came up in front of the victim and demanded his iPOD. The victim refused to hand over the iPOD, and C. forced the victim to the fence on their left side. The victim saw the minor, who was behind the victim, when C. forced the victim to the fence. The minor was then on the victim's right side. According to the victim, the minor "was keeping a look out." C. tried to take away the victim's iPOD, reaching into the victim's pocket. The victim resisted, and C. grabbed the victim's earphones and "left across the street . . . ," with the earphones. The minor "ran off with him across the street," and then to the car wash.

When the victim was asked to describe what he meant by "a look-out," he said: "Just looking out, I guess, seeing if anyone came to help me or just . . . ." The victim was

---

[1] A second petition was filed on January 26, 2007, in which the minor was charged with a misdemeanor for disobeying a gang injunction. The minor admitted the allegations of the second petition.

asked if he saw the minor looking somewhere in particular, and the victim said, "No, just looking around." When again asked how he knew the minor was acting as a look-out, the victim responded, "He was keeping his eye out and everything, just make sure like no one came up, just standing there, just looking out." When asked by defense counsel to tell exactly what he saw, the victim responded:

> "He [the minor] was standing on the side walk keeping an eye out in all directions –
>
> "Ms. Reiter [deputy district attorney]: Your Honor, may the record reflect that the witness is turning his head from left to right as if he's looking around the room.
>
> "The Court: Yes.
>
> "The Witness: He was looking around left to right, making sure that no one came up."

The victim indicated the minor was about four to five feet away from the victim.

A bystander, Juan Herrera, witnessed the incident. Herrera saw one boy pushing another one against the fence; the two were struggling, one trying to take something away from the other. Herrera said that "[o]ne boy was by himself struggling with [the victim] and another one was in the alley." The one in the alley "was just looking to both sides, all over." (The court stated for the record that the witness was moving his head from left to right.) Herrera, who was in his car about to stop at a red light when he witnessed the incident, parked his car at the car wash and confronted C., who had crossed the street to the car wash and "was going through the alley." The minor "remained standing and he was slowly walking," in the same direction as C. Herrera testified that the distance between the minor and the victim struggling with C. was "a little bit further than the crossing of the street," so the minor was "across the street from where this was happening . . . . " (The distance was greater than the length of the courtroom, which the court estimated at 30 feet.) C. began to run when he saw a patrol car, but the minor did not run, and was just walking slowly away.

Herrera testified it appeared to him that the minor and C. were together, because they spoke to each other. "When the patrol car was approaching, one of them yelled over to the other one and one of them ran." Herrera said he did not know which one yelled, but then said it was "[t]he one that was by the alley," who was looking side to side. Herrera did not hear what was said.

DISCUSSION

The minor contends there was insufficient evidence to find as true, beyond a reasonable doubt, that he aided and abetted C. in committing the crime of robbery. We disagree.

In reviewing the minor's claim of insufficient evidence, we determine whether, viewing the whole record in the light most favorable to the prosecution, the record discloses substantial evidence – evidence which is reasonable, credible, and of solid value – from which a reasonable trier of fact could have found the essential elements of the crime beyond a reasonable doubt. (*People v. Osband* (1996) 13 Cal.4th 622, 690.) We must presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. (*Ibid.*)

Robbery "is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (Pen. Code, § 211.) A person aids and abets the commission of a crime when he, "'"acting with (1) knowledge of the unlawful purpose of the perpetrator; and (2) the intent or purpose of committing, encouraging, or facilitating the commission of the offense, (3) by act or advice aids, promotes, encourages or instigates, the commission of the crime."'" (*People v. Jurado* (2006) 38 Cal.4th 72, 136.) Whether the defendant aided and abetted a crime is a question of fact. (*People v. Campbell* (1994) 25 Cal.App.4th 402, 409.)

The minor argues the record is "bereft of any of" the elements necessary to aiding and abetting the robbery of the victim. He argues the evidence shows only that he was present, "standing and looking around . . . ." The minor correctly points out that neither mere presence at the scene of a crime nor knowledge that a crime is being committed is

sufficient to establish aiding and abetting. (*People v. Campbell, supra,* 25 Cal.App.4th at p. 409.) But the evidence showed more than simply presence and knowledge. As *People v. Campbell* tells us, "'[a]mong the factors which may be considered in making the determination of aiding and abetting are: presence at the scene of the crime, companionship, and conduct before and after the offense.'" (*Ibid.*) In this case, the victim testified that both the minor and C. approached him from behind, and that the minor was "looking around left to right," and "standing on the side walk keeping an eye out in all directions . . . ." The bystander, Herrera, also testified that the minor "was just looking to both sides, all over," moving his head from left to right. Herrera further testified that it appeared to him that the minor and C. were together, because one of them yelled to the other when the patrol car came. And the victim testified that the minor "ran off with him [C.] across the street." From this evidence of the minor's acts, a fact finder could reasonably infer that the minor knew of C.'s unlawful purpose and intended to facilitate C.'s commission of the offense.

The minor argues that his flight from the scene does not establish culpable knowledge or intent. He points out that he was subject to a permanent gang injunction and C. was a member of a gang, so the minor knew he might be taken for a perpetrator as well, thus accounting for his flight. Perhaps so, but on appeal all conflicts in the evidence and reasonable inferences must be resolved in favor of the judgment. (*People v. Campbell, supra,* 25 Cal.App.4th at p. 409.) In any event, there was more evidence than the minor's flight from the scene. The minor approached the victim with C., and the juvenile court could reasonably infer from the testimony of both the victim and Herrera that the minor was acting as a lookout, thus encouraging and facilitating the offense. (See *People v. Nguyen* (1993) 21 Cal.App.4th 518, 529 [a person is guilty as an aider and abettor "if, with the requisite state of mind, that person in any way, directly or indirectly, aided the actual perpetrator by acts or encouraged the perpetrator by words or gestures"].)

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COOPER, P.J.

We concur:

FLIER, J.

BIGELOW, J.